

STATE OF NEW HAMPSHIRE

BOARD OF MANUFACTURED HOUSING

New Hampshire Code of Administrative RULES

STATE OF NEW HAMPSHIRE BOARD OF MANUFACTURED HOUSING

ADMINISTRATIVE RULES

TABLE OF CONTENTS

CHAPTER Man 100 ORGANIZATION

PART Man 101 DEFINITIONS

[Definitions Adopted]

Man 101.01 Statutorily Defined Terms

Man 101.02 Agent

Man [101.02]

Man 101.03 Board

Man 101.04 Party

Man 101.05 Respondent

PART Man 102 DESCRIPTION OF BOARD

[Boards Duties and Powers]

Man 102.01 Description of Board

Man 102.02 Boards Operation

Man 102.03 Review of Complaint

PART Man 103 [SCOPE AND APPLICABILITY OF RULES] INFORMATION

Man 103.01 [Applicability and Interpretation

Man 103.02 Relief from Failure to Comply with a Rule

Man 103.03 Absence of a Rule

Man 103.04 Request for Information]

Request for Information

CHAPTER Man 200 RULES OF PROCEDURE

PART Man 201 RULES APPLICABLE TO ALL PROCEDURES

- Man 201.01 Purpose and Applicability
- Man 201.02 Communications with the Board
- Man 201.03 (Appearance and Representation Before the Board
- Man 201.04 Written Appearance(s) Forms
- Man 201.05 Address and Phone Number
- Man 201.06 Withdrawal of Appearance
- Man 201.07 Conveyance
- Man 201.08 Conduct of Parties, Attorneys, and Agents
- Man 201.09 Copies of Filed Documents
- Man 201.10 Form of Documents
- Man 201.11 Signing Documents
- Man 201.12 Nonconforming Documents
- Man 201.13 Motions and Objections
- Man 201.14 Submission of Complaint
- Man 201.15 Default
- [Man 201.16 Final Default
- Man 201.17 Striking Final Default]
- Man 201.16 [18] Consolidation
- Man 201.17 [19] Withdrawal of Case
- Man 201.18 [20] Settlement and stipulations
- Man 201.19 [22] Continuances
- Man 201.20 [23] Hearings
- [Man 201.24 Telephonic Conferences and Hearings]
- Man 201.21 [25] Hearing Tape and Transcript
- Man 201.22 [26] Evidence
- Man 201.23 [27] Copies of Exhibits
- Man 201.24 [28] Return of Exhibits
- Man 201.25 [29] Request for Findings of Fact and Rulings of Law
and Legal Memoranda
- Man 201.26 [30] Clerical Mistakes
- Man 201.27 [21] Decisions, Rehearings, and Appeals

PART Man 202 GENERAL RULES GOVERNING HEARINGS

- Man 202.01 Applicability
- Man 202.02 Filing Complaint
- Man 202.03 Discovery
- Man 202.04 Hearing Attendance -- Adjudicative Hearings

PART Man 203 RULES GOVERNING APPEAL

- Man 203.01 Appeal to Superior Court
- Man 203.02 Rehearing Motion
- Man 203.03 Appeal

PART Man 204 RULES GOVERNING PETITIONS AND RULE CHANGES

Man 204.01 Petition for Rule Changes

PART Man 205 RULE MAKING PROCEDURE

Man 205.01 Requirements

PART Man 206 DECLAMATORY RULING

Man 206.01 Petition for Declaratory Ruling

Man 206.02 Response to Petition

Man 206.03 Inadequate Petition

CHAPTER Man 300 BOARD OF MANUFACTURED HOUSING FEES

PART Man 300 BOARD OF MANUFACTURED HOUSING FEES

Man 300.01 Fees

Man 300.02 Waiver of Fee

CHAPTER Man 400 BOARD OF MANUFACTURED HOUSING FORMS

PART Man 401 BOARD OF MANUFACTURED HOUSING COMPLAINT FORM

Man 401.01 [Complaint Form] Complainant

Man 401.02 Representative

Man 401.03 Properties Affected by Complaint

Man 401.04 Reason for Compliant

Man 401.05 Manufactured Housing Park Rules

Man 401.06 Certification by Complainant

Man 401.07 Certification and Appearance by Representative

Man 401.08 Complaint Filing Instructions

PART Man 402 BOARD OF MANUFACTURED HOUSING RESPONDENT FORM

Man 402.01 Receipt of Complaint Form by Respondent

Man 402.02 Respondent

Man 402.03 Manufactured Housing Park Rules

Man 402.04 Rebutting Statement by Respondent

Man 402.05 Certification by Respondent

Man 402.06 Certification and Appearance by Respondent Representative

Man 402.07 Respondent Filing Instruction

OR 95-105 11-20-95 1

Readopt with amendments Man 100, effective 7-13-95 (Document # 6061) to read as follows:

CHAPTER Man 100 ORGANIZATIONAL RULES

Statutory Authority: RSA 205-A:25 through RSA 205-A:31.

PART Man 101 DEFINITIONS OF [TERMS] TERMS.

Man 101.01 Statutorily Defined Terms. The terms defined in RSA 205-A:1, shall have the same meaning when used in these rules.

Man 101.02 “Agent” means a complainant’s or respondent’s representative who is not an attorney, but authorized to appear before the board.

Man 101.03 “Board” means “board” as defined in RSA 205-A:25, I.

Man 101.04 “Party” means the person/entity designated as a party in any matter before the Board and includes any party’s agent or attorney.

Man 101.05 “Respondent” means the entity, person, or party against whom the complaint was filed.

PART Man 102 DESCRIPTION OF BOARD

Man 102.01 [Description of Board.] Board’s Duties and Powers.

(a) The board is established in accordance with RSA 205-A:25 and consist of 9 members as follows:

- (1) Two public members, appointed by the Governor;
- (2) One member appointed by the Governor, from a list of 2 persons nominated by the New Hampshire Manufactured Housing Association;
- (3) One member appointed by the Governor, from a list of 2 persons nominated by the New England Manufactured Housing Association.
- (4) One member appointed by the Governor, from a list of 2 persons nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.

- :
- (5) One member appointed by the Governor who is a resident of a manufactured housing park who is not a member of the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.
 - (6) One member of the New Hampshire Bar Association, appointed by the President of such association.
 - (7) Two members of the House of Representatives, appointed by the Speaker of the House.

(b) Except for the legislative members, each person shall serve for a 3 year term and until a successor is appointed and qualified, provided, however, that the initial appointments shall be as follows:

[1.](1) Two public members shall be appointed to 3 year terms.

[2.](2) The members from the housing associations and the tenants association and the bar association shall serve one-year terms.

[3.](3) The legislative members shall serve terms which are coterminous to their terms in the general court.

(c) The chairperson shall be chosen from among the members at the initial organizational meeting and shall serve at the pleasure of the members of the board.

(d) [Duties of the Board:] The responsibilities of the board include:

(1) Adopting rules under RSA 205-A:31; and

(2) Providing an impartial resolution to matters arising under RSA 205-A:2, RSA 205-A:7, and RSA 205-A:8, through hearing procedures established under Man 200.

[3. The board shall decide matters using the preponderance of evidence standard and the burden of proof shall be upon the complainant.]

Man 102.02 Board's Operation.

(a) [Location.] The Board's office location and address is as follows:

[1.] Board of Manufactured Housing
117 Pleasant Street
Dolloff Building Room 418
Concord, New Hampshire 03301

[2. Location and time of hearings shall be provided in the hearing notice.]

[(b) Business Hours.]

[(c)](b)[Official Record.]For each case file, the board's docket sheet shall be the official list of all actions and filings. The records of the board shall be maintained at the office of the [C]consumer protection and [A]antitrust [B]bureau of the [D]department of [J]justice in accordance with RSA 205-A:29.

Man 102.03 Review of Complaint. The board shall designate a party or committee for a preliminary screening review of a complaint pursuant to Man 201.14 (d).

PART Man 103 INFORMATION.

Man 103.01 Request for Information. Information may be obtained from the board by calling the board office at (603) 271-1468.

Readopt with amendments Man 200-400, effective 7-13-95 (Document # 6061) to read as follows:

CHAPTER Man 200 RULES OF PROCEDURE

PART Man 201 RULES APPLICABLE TO ALL PROCEDURES

Man 201.01 Purpose and Applicability.

(a) [Purpose.] Man 201 is intended to promote the just, consistent and efficient handling of all proceedings before the board.

(b) [Applicability.] Except as specifically stated, Man 201 shall apply to all Board proceedings.

Man 201.02 Communications with the Board.

(a) [Address.] All communications to the board shall be addressed to the board clerk or his/her designee and not to any individual board member.

(b) [Requests.] All requests for board action shall be made in writing by motion under Man 201.13.

Man 201.03 Representation Before the Board.

[(a) Appearance.] Any party may appear before the board on his own behalf.

Man 201.04 Written Appearance Forms.

(a) [Contents.] Except as specified below, each party shall file an appearance signed by the party and/or the party's attorney or agent, listing:

- (1) The name and docket number of the matter;
- (2) The party for whom the appearance is filed; and
- (3) The appearing person's name, address and daytime phone number.

(b) [Appearance by Attorney or Agent.] If an appearance is filed by an attorney or an agent, the appearance shall:

(1) Comply with paragraph (a) above;

(2) State the attorney or agent has the party's authorization to appear and act on the party's behalf and to bind the party by the attorney's or agent's actions and conduct; and

(3) Certify the attorney or agent:

a. Has sent a copy of the appearance to the represented party and the opposing party; and

b. Is aware of the restriction in Man 201.06 on withdrawing the appearance.

(c) [Documents.] The request for hearing form shall constitute the appearance of the person signing the document, provided the following requirements are met:

(1) [Complainant.] Information required pursuant to (a) above, excepting the docket number, shall be included in the document; [and shall constitute the complainant's appearance;] and/or

(2) [Respondent.] Information required pursuant to (a) above, excepting the docket number, shall be included in the document; [and shall constitute the respondent's appearance;] and/or

~~[(2)]~~(3) [Attorney/Agent.] For attorneys and agents, the information required pursuant to (a) and (b) above, excepting the docket number, shall be included in the complainant's document [in order to constitute the attorney or agent's appearance on behalf of a complainant or respondent].

(d) [Board Communications.] Except as stated in paragraph (e), when an appearance has been [F]filed, all communication from the board to parties shall be made through the attorney or agent, including sending the attorney or agent all hearing notices and decisions.

(e) [Communications and Notices to Respondent.] Unless otherwise specifically requested by the responding party where any party is represented by an agent or attorney, all board communications, including hearing notices and decisions shall be furnished to the agent or attorney. Notice to the representative shall constitute notice to the party.

(f) Non attorneys may appear as agents before the Board to the extent permitted by RSA 311:7 as amended.

(a) [Address.] All documents filed with the board shall include the filing party's mailing address, actual street address and daytime phone number.

(b) [Change of Address.] Parties or their representatives shall notify the board of any change in address or phone number.

(c) [Sending Communications.] Communications sent to the last address supplied by a party or representative shall be deemed binding notice to the party.

Man 201.06 Withdrawal of Appearance.

(a) [Motion.] An attorney or agent may withdraw by filing a withdrawal-of-appearance motion with the board, and providing copies to the client and all other parties. The withdrawal motion shall include the party's current address and phone number.

(b) [Board Action.] The motion to withdraw appearance shall be automatically granted within 14 business days of filing, provided:

- (1) There are no pending motions;
- (2) No hearing date has been set; and
- (3) No party objects.

(c) [Objection.] Any objection to a withdrawal-of-appearance motion shall be filed within 10 business days of the filing of the withdrawal-of-appearance motion and shall state with specificity the reasons for objecting. The objection shall be sustained only if the proceeding has progressed to such a stage that allowing withdrawal would be unduly prejudicial to any party or would unduly delay the board's hearing of the complaint.

(d) [Future Communications.] Whenever an attorney or agent withdraws from an action and no other appearance is entered, all future communications shall be sent to the party.

Man 201.07 Conveyance.

If the property subject to a proceeding is conveyed while an action is pending, the original complainant shall continue to be the party, unless the board, on its own motion or upon a motion by the original party and after notice, directs the person to

OR 95-106 11-20-95 4

whom the interest has been transferred to be substituted or joined with the original party. Parties claiming entitlement to their predecessor's rights, such as the predecessor's filing of complaint, shall file an assignment of rights from the predecessor to the grantee of the transfer and shall be signed by the predecessor.

Man 201.08 Conduct of Parties, Attorneys and Agents.

[(a) Conduct.] Parties, attorneys and agents shall conduct themselves in a truthful and respectfully manner in all of their dealings with the board and other parties, attorneys and agents.

(b) In exercising its discretion to join or substitute the new owner for the original complainant the board shall consider:

- (1) Whether the new owner has agreed to the substitution or joinder;
- (2) Whether the new owner, as a practical matter, is in an advantageous position to present important facts or legal argument to the board;
- (3) Whether the board's decision will affect the new owner's exercise of substantial rights or privileges; or
- (4) Whether the joinder of the new owner will aid the fair, prompt and wise disposition of the proceeding.

Man 201.09 Copies of Filed Documents.

(a) [Copies to all Parties.] All documents, except the complaint document, filed with the board shall be simultaneously copied to all other parties. The submitting party shall certify in the document that a copy was sent to all other parties.

(b) [Memorandum.] The party filing any memorandum or requests for findings/rulings shall file the original and 9 copies. If a party fails to supply the correct number of copies, the board shall either return the document for copying by the party or copy the document and bill the party for copying costs as specified in Man 301.01 (a) (3).

Man 201.10 Form of Documents.

(a) [Forms.] In addition to complying with all other applicable rules, every document shall include at the beginning of the document:

OR 95-106 11-20-95 5

- (1) The name of the case;
- (2) The docket number;
- (3) The title of the document, for example, "Motion to Continue";
- (4) The name, address and telephone number of the submitting party or
the party's attorney or agent; and
- (5) A statement that a copy of the document was sent to all other parties.

(b) [Separate Paragraphs.] All statements of claim or defense shall be made in numbered paragraphs, and each numbered paragraph shall be limited as far as practicable to a statement of a single set of circumstances.

(c) [Adoption by Reference.] Statements in a document may be adopted by reference in a different part of the same or another document.

(d) [Attached Documents.] A copy of any written instrument that is attached or referenced to a document shall be a part thereof for all purposes.

Man. 201.11 Signing Documents.

(a) [Signature.] Every document shall be signed by the party or the party's attorney or agent. The document shall include the signer's name, address and telephone number.

(b) [Certification.] The signature on a document shall constitute a certificate:

- (1) That the signer has read the document;
- (2) That the facts in the document are true to the best of the signer's knowledge formed after reasonable inquiry;
- (3) That no pertinent facts have been excluded;
- (4) That the party's position on any request is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and
- (5) That the document is not submitted for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the litigation costs.

OR 95-106 11-20-95 6

(c) [False Swearing.] RSA 641:2 through RSA 641:3 shall apply to all submitted documents.

Man 201.12 Nonconforming Documents.

(a) [Returned or Nonconforming Documents.] If a party files with the board a document that does not comply with any statute or board rule, the board shall:

- (1) Date stamp the document;
- (2) Return the document to the submitting party;
- (3) Notify the party of the noncompliance; and
- (4) Provide the party with 10 business days to re-file a conforming

document.

(b) [Compliance.] If the submitting party timely re-files a conforming document, the document shall be considered as filed on the original filing date.

(c) [Noncompliance.] If the submitting party fails to timely re-file a confirming document, the document shall be considered as filed on the re-filing date, not the original filing date, which could result in the document being untimely filed under a statute, rule or order.

Man 201.13 Motions and Objections.

(a) [Requirement.] All requests for board action or order shall:

(1) Be made by motion that, unless made during a hearing, shall comply with all other applicable board rules;

[(1)](2) Be in writing unless made on the record at a hearing;

[(2)](3) State with specificity the grounds therefor;

[(3)](4) State the relief sought;

[(4)](5) State compliance with paragraph (b) below on seeking concurrence;

[(5)](6) Be signed in accordance with Man 201.11;

OR 95-106 11-20-95 7

[(6)](7) Be copied to all other parties; and

[(7)](8) State that a copy was sent to all other parties.

(b) [Seeking concurrence.] The moving party shall make a good-faith attempt to obtain concurrence from the opposing party in the relief sought, except for dispositive motions or other motions where it can reasonably be assumed the moving party will be unable to obtain concurrence. The motion shall recite compliance with this paragraph.

(c) [Supporting facts.] Unless apparent from the record or agreed upon by the parties, the board shall not rely upon any facts in deciding a motion unless the facts and documents relied on in the motion are submitted under certification of truthfulness subject to the penalties of RSA 641:1 through RSA 641:3.

(d) [Objections.] An objection to a motion shall be filed within 10 business days after the motion was received by the board.

(e) [Memorandum.] Supporting memorandum and documents shall be filed with the motion or objection.

(f) [Decision on Motions.] Motions shall be decided with or without an oral hearing. An oral hearing shall be granted on the board's own initiative or upon a party's [granted] request when the board concludes an oral hearing will materially assist the board or is required to comply with the law.

Man 201.14 Submission of Complaint.

(a) [Pre-submission Requirement.] At least 5 business days prior to filing a complaint, the potential complainant in writing, shall notify the party against whom the complaint may be filed of the condition which would constitute the complaint. The potential complainant shall make a good faith attempt to resolve the matter without filing a complaint. Any complaint filed with the board shall include a certification that the complainant has complied with this requirement.

(b) The complainant shall obtain Board of Manufactured Housing Complaint Form and complete Section I - Complaint, pursuant to Man 401.

(c) Upon completion of Section I - Complaint, the complainant shall:

(1) Mail, hand deliver, or deliver by courier one copy of the completed Section I - Complaint including Section II - Response to the respondent; and

OR 95-106 11-20-95 8

(2) On the same day, shall deliver one copy of Section I - Complaint to the board along with a nonrefundable \$25.00 check; payable to
"Treasurer,
State of New Hampshire".

(d) The date of filing [is]shall be the date this form is either hand delivered to the board, postmarked by the post office, or receipted by an overnight delivery service.

(e) Upon receipt of a complaint from the complainant, the respondent shall:

(1) Complete Section II - Response; and

(2) Send or deliver it to the board within 14 calendar days.

(f) Upon receipt of a complaint so submitted the board or its designee shall review the complaint and response to determine that all requirements have been satisfied and [if the board should proceed with consideration]the board shall proceed with consideration pursuant to RSA 205-A:27.

(g) If the board [or its designee]decides to proceed with the complaint, the board shall notify the parties and shall by order, schedule the matter for hearing.

(h) If the [B]board decides not to proceed with the complaint, the board shall notify the parties by an order to dismiss which shall include specific explanations for its reason or reasons of that action.

[(i) If the decision not to proceed is made by the board's designee and not the board, the complainant may request in writing within 10 business days of the order to dismiss, that the full board review the decision stating the basis for the request. The complainant shall supply a copy of the request to the respondent.]

(i) If the board accepts the complaint it shall rescind the order to dismiss, notify the parties, and shall schedule the matter for hearing.

[(k)](j) If the board decides not to accept the complaint, the board shall issue a written decision which may be appealed to superior court in accordance with RSA 205-A:28.

Man 201.15 Default.

(a) [Applicability.] This section shall apply to all matters before the board, except for hearing attendance, which shall be governed by Man 202.04. This section shall establish a procedure for addressing noncompliance with board orders or requests.

OR 95-106 11-20-95 9

(b) [Default.] A party who fails to respond to or comply with a board request, order or rule, shall be considered in default.

(c) [Default Order.] Upon default, the board shall send the party a default order signed by the clerk or a deputy clerk.

(d) [Contents of Default Order.] Default orders shall:

- (1) Specify how the party has defaulted;
- (2) Order the party to cure the default within a specified period; and
- (3) Inform the party that failure to timely cure the default will be cause to issue a final default.

(e) [Compliance.] If a party timely complies with a default order, the board shall, without order, continue the proceeding.

(f) [Noncompliance.] If a party fails to timely cure the default order, a final default order shall be issued at the board's direction, signed by the clerk or a deputy clerk, and the effects stated in the default order shall occur.

(g) [Motion.] To set aside a final default, a party shall:

- (1) Promptly cure the default; and
- (2) Promptly move to strike the final default, stating in the motion the reasons;

- a. The party failed to comply with the board's original request, order or rule; and
- b. The reasons the party failed to timely cure the default once ordered to do so.

(h) [Board Action.] The board shall only grant the motion to set aside the final default when the party's failures were due to accident, mistake or misfortune.

Man 201.16 Consolidation.

In actions involving common questions of law or fact the board shall upon motion or its own initiative[;];

OR 95-106 11-20-95 10

(a) Consolidate part of or all of the actions, including consolidation for hearings and decisions; and

(b) Make such orders concerning proceedings therein to avoid unnecessary costs or delay.

Man 201.17 Withdrawal of Case.

(a) [Withdrawal of case.] The complainant may withdraw a case by filing a written case withdrawal. The complainant shall provide the opposing party with a copy of the withdrawal.

(b) [Board Action.] The withdrawal shall be accepted and the matter marked "withdrawn; no further action."

(c) [Effect.] A withdrawal shall terminate the board's consideration of a matter, and once the file has been so marked, the complainant shall not rescind the withdrawal. A withdrawal shall not be considered a board decision unless the withdrawal is filed with a settlement agreement in accordance with Man. 201.18.

Man. 201.18 Settlement and Stipulations.

(a) [Settlements.] Settlements between the parties shall be encouraged in accordance with RSA 541-A:38. Parties shall attempt to settle a matter before it is scheduled for a hearing.

(b) [Settlement Agreements.] All settlement agreements, except those made on the record or recited in an order, shall:

- (1) Be in writing, describing the agreement's material terms; and
- (2) Be signed by both parties and their attorneys or agents.

(c) [Notification of Settlement.] If a matter has been scheduled for a hearing and the parties settle with insufficient time to file the signed settlement agreement before the hearing, either party shall, before the hearing call the board's clerk and inform her/him of the settlement. The parties shall then, within 10 business days of the call to the board, file the settlement agreement.

(d) [Failure to File Settlement Agreement.] If the settlement agreement or stipulation is not filed, the board shall notify the parties that unless a party files an objection within 10 business days, the docket will be marked: "case settled; no further action."

OR 95-106 11-20-95 11

Man. 201.19 Continuances.

(a) [Motions.] Requests to reschedule a hearing, shall:

(1) Be filed within 10 business days of the date of the hearing as set forth in the hearing notice except when a later filing is justified by accident, mistake or misfortune;

(2) State with specificity the reason for the continuance request;

(3) As applicable, comply with (b), (c), and (d) below;

(4) State whether the other party consents to the continuance,

(5) State when the matter can be rescheduled; and

[(5)](6) If filed by an attorney or agent, state:

a. The client has been advised of the continuance request and the reasons therefor;

b. The client has been sent a copy of the continuance motion; and

c. The client has consented to the continuance.

(b) [Concurrence.] The board shall not be bound by the other party's concurrence to the continuance request but shall decide the continuance based on circumstance conveyed by the request.

(c) [Other Hearing.] If the continuance request is based on a conflicting court or other tribunal's hearing, the motion shall state:

(1) The date and time, case name, docket number and court or tribunal of the other matter;

(2) The substance of the other hearing;

(3) Whether a continuance of the other matter has been sought and the

results of that request; and

(4) Whether anyone else could cover either the board's hearing or the other hearing.

OR 95-106 11-20-95 12

(d) [Unavailable Witnesses or Evidence.] If the continuance request is based on inability to procure or present material evidence, by testimony or by [D]documents, the motion shall:

- (1) State the name of the witness or document;
- (2) State the nature of the evidence;
- (3) State the reason for its unavailability;
- (4) State the steps taken to procure the evidence for the hearing; and
- (5) Include a statement that the other party has been consulted about whether the evidence can be received without live testimony.

(e) [Medical Reasons.] If the continuance request is based on illness or injury, the motion shall state sufficient medical information to allow the board to determine whether a continuance is warranted. This information shall include the nature of the illness or injury and the name and address of the treating physician. Special exception [may]shall be made when the untimeliness of the sickness or injury precludes the 10 business day requirement as set forth in (a) (1) above.

[(g)](f) [Continuances.] Continuances shall be granted only in extraordinary circumstances, including:

- (1) Illness or injury have prevented a party or material witness from preparing for the hearing or will prevent the party or witness from attending the hearing;
- (2) A party has a conflicting hearing in another tribunal that cannot be continued;[and the party cannot find a reasonable substitute for either the board's hearing or the other hearing and when justice or efficiency is served by allowing the party to be at the hearing]
- (3) Material evidence will be unavailable for the hearing despite the [P]party's due diligence to obtain the evidence for the hearing, and if the evidence could be introduced in writing, the other party will not consent to the introduction solely in writing or the proffering party would be prejudiced by limiting it to a written submission.

Man 201.20 Hearings.

(a) [Purpose.] This section is intended to promote justice, fairness, and the efficient use of the board's and the parties' time at hearings. This section is not intended to impede succinct and organized presentations.

(b) [General Requirements.] All hearings shall be held in accordance with the New Hampshire Constitution, RSA 541-A and RSA 205-A:27 IV (c).

(c) [Specific Time Limit.] If specific time limits are to be imposed on a hearing, the board shall state such limits in the hearing notice. Parties requiring more than the allotted time shall, within 10 business days of the date of the hearing notice, file a request for additional time, specifying why the allotted time is insufficient and stating how much additional time is required. [The board shall either grant or deny such a motion.]

(d) [Enforcement of the Time Limits.] The board shall enforce specific time limits by requiring parties to complete their presentations within the time limits.

(e) [Concise Time Limits.] In addition to the specific time limits discussed above, the board shall control the length of hearings by requiring succinct presentations and preventing parties from making irrelevant, immaterial or repetitious presentations.

Man 201.21 Hearing Tape and Transcript.

(a) [Record in Hearings.] The board shall tape record all oral proceedings and such tape shall be the official record. Parties may, at their costs, arrange to have a stenographer at a hearing. Upon review and approval of such transcript, the board shall certify the transcript.

(b) [Availability.] Tapes shall be available for inspection and recording. Parties shall contact the board to arrange a time to inspect or record the tape. Parties may copy a tape with their own tape and recorder under the supervision of the clerk or other designated person without a fee, but such tape shall not be an authorized copy for any purpose other than reference by the recording party.

(c) [Copies of Tapes.] Parties may request in writing copies of tapes. Such request shall be accompanied by the fee stated in Man 301.01 (a) (2).

(d) [Preservation of Tapes.] Tapes shall be maintained for 45 days following a final decision that was not appealed. If an appeal is taken, tapes shall be maintained until a decision is issued by the court

(e) [Transcripts. The board has no transcription services.] Any party wishing a transcript shall request and pay for the transcription of the tape.

Man 201.22 Evidence.

(a) [General Rule.] Pursuant to RSA 205-A:27 IV (c), RSA 541-A:33, and RSA 541-A:34 the board shall not be bound by the strict rules of evidence adhered to in the superior court.

(b) [Exclusive of Certain Evidence.] The board shall exclude irrelevant, immaterial and unduly repetitious evidence in accordance with RSA 205-A:27 IV (c) and RSA 541-A:33 II.

Man 201.23 Copies of Exhibits.

(a) [Original and Copies.] The party offering any exhibit at a hearing shall have the original marked and shall provide one copy to the other party and shall provide 2 copies to the board.

(b) [No copies Required.] Additional copies shall not be required for photographs, maps or other documents that are not easily copied.

(c) [Noncompliance.] If a party fails to supply the correct number of copies, the board shall either return the document for copying by the party or copy the document and bill the party for copying costs.

Man 201.24 Return of Exhibits.

[(a)] Upon written request, exhibits shall be available for pick up 45 business days after a final, nonappealable decision has been issued.

Man 201.25 Requests for Findings of Fact and Rulings of Law and Legal Memoranda.

(a) [Filing.] All requests for findings, rulings and hearing memoranda shall be submitted to the board before the close of a hearing.

(b) [Form of Requests for Findings.] Requests for findings and rulings shall consist of separately numbered paragraphs with only one finding or ruling per paragraph. Requests that contain multiple findings or rulings shall be marked “neither granted nor denied.”

OR 95-106 11-20-95 15

(c) [Number of Requests.] Parties shall be limited to a combined total of 25 requests for findings of fact and/or rulings of law.

Man 201.26 Clerical Mistakes.

(a) [Correction.] Clerical mistakes in decisions, orders or other parts of the record, arising from oversight or omission, shall be corrected by the board upon discovery.

(b) [Correction after Appeal.] During the pendency of an appeal, such mistakes shall be so corrected before the appeal is docketed in the superior court, and thereafter while the appeal is pending shall be corrected only with leave of the superior court.

Man 201.27 [Decisions, Rehearings, and Appeals.] Decisions and Rehearings.

(a) [Decisions.] When the board makes its decision, an order shall be made in writing and shall include findings of fact, conclusions of law, and responses to request submitted under Man 201.25. The findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. The parties shall be notified by mail of any decision or order in accordance with RSA 541-A:35 and RSA 205-A:28 I.

(b) [Rehearing.] A decision of the board may be appealed, by either party, by first applying for a rehearing with the board within 20 business days of its decision.

(c) The board shall grant a rehearing [if in the opinion of the board]when:

[(1) There is good reason stated in the motion;]

[(2)](1) There is new evidence not available at the time of the hearing;
[and/or]

[(3)](2) The board's decision was unreasonable or unlawful.

[(c) Appeal to Superior Court. An aggrieved party may appeal to the superior court for the county in which either party resides in accordance with the procedures set forth in RSA 677:2 through 677:14.]

(d) [Final Decision.] If no timely appeal is taken pursuant to paragraph II, the decision of the board shall become final. The board shall file a certified abstract of any final decision with the clerk of the superior court in the county of residence of the

OR 95-106 11-20-95 16

complainant in accordance with RSA 205-A:28 III. The clerk of such court shall enter judgment thereon, and such judgment may be enforced as with any final judgment of the superior court.

PART Man 202 GENERAL RULES GOVERNING HEARINGS

Man 202.01 Applicability.

This part shall apply to all complaints. The rules in Man 201 also shall apply to these proceedings.

[Man 202.02 Filing Complaint.

(a) The Complaint. The complaint shall be filed in writing utilizing the board's complaint form and submitted to the board either in person, by mail, or by courier.

(b) Specificity Required. The complaint document shall state the grounds for the complaint with sufficient specificity to allow the board to understand the complainant's arguments and to allow the opposing party the opportunity to review and address the complainant's arguments. Conclusory statements without supporting arguments or data shall be insufficient.

(c) Failure to Specify. If a complainant's complaint document lacks sufficient specificity, the board shall declare the complainant in default. The board shall then order the complainant to amend the complaint. The complainant shall amend the complaint within 10 business days of such notice to provide sufficient specificity.

(d) Grounds Limited. The board shall limit the complainant's presentation to the issues raised in the complaint. A complainant seeking to add new grounds shall file an amendment to the complaint no less than 21 business days before the hearing.

Man 202.03 Discovery.

(a) General Rule. Except as modified in these rules, the superior court discovery rules, and any amendments are adopted and applicable to all Board proceedings.

(b) Number of Interrogatories. Except by leave of the Board and only when the moving Party demonstrates additional interrogatories are required to ensure full discovery, no Party shall serve more than 15 interrogatories on the opposing Party.]

[Man 202.04]Man 202.02 Hearing Attendance -- Adjudicative Hearings.

OR 95-106 11-20-95 17

(a) [Purpose.]This section is intended to ensure:

- (1) That parties attend all hearings;
- (2) The efficient use of the board's and the parties' time; and
- (3) The board and the parties have an opportunity to obtain relevant information through presentations and inquiries at hearings.

(b) [Attendance Required.] Unless a party complies with (c) below, all parties shall attend all hearings either in person or by their agent or attorney.

(c) [Notice of Nonattendance. Unless the board perceives the need for all parties to attend, p]Parties shall be excused from attending a hearing by filing with the board and providing a copy to each other party, the following:

- (1) A statement that the party will not be attending the hearing;

(2) If not previously submitted to the board, a hearing brief presenting the party's arguments and supporting material[; and

(3) Such notice and brief] shall be filed with the board no later than 14 business days before the hearing date[, which may be extended for good cause].

(d) [Excusal of Nonattendance.] If a party complies with paragraph (c), the board shall decide the complaint on the information before it.

[(e) Waivers by Nonattendance. Nothing in this rule shall alter the burden of proof or constrain the board from reviewing and weighing the evidence.]

(e) The board shall decide matters using the preponderance of evidence standard and the burden of proof shall be upon the complainant.

(f) [Parties not in Attendance.] Parties who do not attend a hearing shall be deemed to waive:

(1) The opportunity to support their position other than as presented in writing;

(2) The right to confront, question and challenge the other party's evidence except as presented in the brief; and

OR 95-106 11-20-95 18

(3) The opportunity to answer board questions.

(g) [Complainant's Nonattendance.] If a complainant fails to attend a hearing without having complied with paragraph (c) above:

(1) No hearing shall be held;

(2) The complainant shall be defaulted; and

(3) The complaint shall be marked "Complainant Defaulted; no further action."

[(g)](h) [Respondent Nonattendance.] If the respondent fails to attend a hearing without having complied with paragraph (c) above the board shall:

(1) Review the complainant's evidence and arguments;

(2) Review the file; and

(3) Issue a decision based on the complainant's case and file.

[Man 203.01 Appeal to Superior Court. The appeal of the board's decision shall be pursuant to RSA 205-A:28, II in accordance with the procedures set forth in RSA 677:2 through RSA 677:14.]

Man 203.0[3]1 Appeal. Any person aggrieved by the board's decision to deny a rehearing or by the board's decision after rehearing may appeal to the Superior Court in accordance with RSA 205-A:28, II and the procedures set forth in RSA 677:2 through RSA 677:14.

Man 203.02 Rehearing Motion. The board shall [determine to grant or deny a rehearing] make a determination within 10 business days after receipt of a rehearing motion.

[(a) Filing.]Man 203.03 Filing. Motions for rehearing, reconsideration or clarification or other such post-hearing motion shall be filed within 20 business days of the date of the board's order or decision. Filing a rehearing motion shall be a prerequisite to appealing to the superior court in accordance with RSA 205-A:28 II.

OR 95-106 11-20-95 19

[(b) Rehearing Granted.] Man 203.04 Rehearing Procedure. When the board grants a rehearing, the board shall provide notice and conduct the rehearing in the same manner as the hearing, limited however, to the issues set forth in the motion for rehearing.

PART Man 204 RULES GOVERNING PETITIONS AND RULE CHANGES

Man 204.01 Petitions for Rule Changes.

(a) [Applicability.] This section shall apply to any person intending to submit a petition to the board to adopt, amend or repeal the board's rules pursuant to RSA 541-A:4.

(b) [Procedure.] A petition to adopt, amend or repeal a rule shall be submitted to the board's chairman. The chairman shall schedule a board meeting in compliance with RSA 91-A and present the petition to the board.

(c) [Board Review.] The board shall:

- (1) Notice the petitioner of the meeting at which the petition will be reviewed;
- (2) Consider the petition;
- (3) Request further information, if necessary;
- (4) Decide on the petition; and

(5) Within 30 days after submission of the petition, notify the petitioner of the board's decision.

(d) [Granting a Petition.] The [B]board shall grant a petition to adopt, repeal or amend any rule if the petitioner can demonstrate the following pursuant to RSA 541-A:4:

(1) The proposed rule, amendment or repeal is necessary to protect the public interest; and

(2) The proposed rule, amendment or repeal does not conflict with RSA 205-A.

(e) [Form of Petition.] Petitions to adopt, amend or repeal a rule shall:

(1) Be limited to a single subject; and

OR 95-106 11-20-95 20

(2) If the petition concerns a rule, cite the rule in question.

PART Man 205 RULE MAKING PROCEDURE

Man 205.01 Requirements. The board shall comply with all notice and hearing requirements of RSA 541:A as to rule making.

PART Man 206 DECLARATORY RULING

Man 206.01 Petition for Declaratory Ruling. Any person may apply to the board for a declaratory ruling as to the applicability of any statute pertaining to the board or any rule of the board in accordance with the following:

(a) Any applicant for a declaratory ruling shall submit in writing a detailed request for a declaratory ruling setting forth the statute or rule of which the applicability is questioned, the interest of the applicant, and the activity in question. Such applications shall be printed or typed, and legible.

(b) The application shall be signed by the applicant and he shall include his address or an address at which he can receive correspondence.

Man 206.02 Response to Petition. Within 30 business days, the board shall prepare a written ruling providing a response to the request and the reasons for the response, unless it is determined by the board that an answer to the questions necessitates referral of the matter to the attorney general, in which case the chairman shall provide this ruling within 5 days of receipt of an opinion or other response of the attorney general. Referrals to the attorney general shall be made no later than 15 business days following receipt of an application under this regulation.

Man 206.03 Inadequate Petition. In the event the board determines that any application provides insufficient information upon which to make the requested ruling, or [is otherwise defective or inadequate,] fails to comply with Man 206.01, it shall within 15 days return the application to the applicant with a statement indicating the nature of the deficiencies.

CHAPTER Man 300 BOARD OF MANUFACTURED HOUSING FEES

PART Man 301 BOARD OF MANUFACTURED HOUSING FEES

Man 300.01 Fees.

(a) Fees shall be as follows:

OR 95-106 11-20-95 21

(1) A [C]complaint [F]filing [F]fee shall be \$25.00 in accordance with (RSA 205-A:27, IV (a));

(2) Authenticated [C]copies of [H]hearing [T]tapes [(each cassette)]are available at a cost of \$30.00 per cassette, and

(3) [Copy Costs (each page)]There will be a charge of \$0.20 per copy page.

Man 300.02 Waiver of Fee.

(a) When a party is financially unable to pay any fee, that party may file a request for waiver of the fee. Such request shall be accompa[o]nied with a financial [affidavit] statement, listing the party's income and expenses. The board shall grant the waiver when it concludes the party cannot pay the fee [due to financial hardship].

CHAPTER Man 400 BOARD OF MANUFACTURED HOUSING FORMS

PART Man 401 BOARD OF MANUFACTURED HOUSING COMPLAINT FORM

Man 401.01 Complainant.

(a) The tenant or manufactured housing park owner shall list the following:

[(a)](1) Name;

[(b)](2) Mailing address; and

[(c)](3) Telephone numbers at home and work.

[(1)](b) In accordance with Man 201.14 (a), the complainant shall certify that 5 days prior to submission of this complaint, the complainant notified the respondent in writing of the conditions constituting this complaint and has made a good faith attempt to resolve the matter without filing a formal complaint.

Man 401.02 Representative. Any representative if other than tenant or manufactured park owner shall [complete] comply with Man 401.01 in addition to submitting the following:

- (a) Representative's name;
- (b) Representative's mailing address; and
- (c) Representative's telephone number at home and work.

OR 95-106 11-20-95 22

Man 401.03 Properties Affected by Complaint.

(a) The complainant shall include on or with Section 1 - Complaint [A] a brief description of the manufactured housing park, its location, the existing number of homesites, and the number of future homesites if more are planned.

(b) The complainant shall submit the following information relating to the respondent named in this complaint:

- (1) Respondent's name;
- (2) Respondent's mailing address; and
- (3) Respondent's telephone number at home and work.

Man 401.04 Reason for Complaint.

[(a)]The complainant [has] shall have the burden of proof, therefore, he/she shall state with specificity the reasons supporting his/her complaint. List each complaint separately citing RSA 205-A:2, RSA 205-A:7, and/or RSA 205-A:8 and each affected paragraph thereof.

Man 401.05 Manufactured Housing Park Rules.

[(a)]The complainant shall attach a complete copy of the applicable manufactured housing park rules.

Man 401.06 Certifications by Complainant.

[(a)]The complainant shall certify under the penalties of RSA 641:2 or RSA 641:3 that:

(a) [a]All of the facts contained in this complaint are complete and truthful to the best of the signer's knowledge; and [that]

(b) A completed copy of the complaint form has been delivered to the respondent on the same date that the complaint was submitted to the board by mail, hand delivery or courier.

Man 401.07 Certification and Appearance by Representative.

OR 95-106 11-20-95 23

The complainant's representative shall certify under penalties of RSA 641:2 or RSA 641:3 that:

[(1)] (a) All certifications [in] made pursuant to Man 401.06 are true;

[(2)] (b) The complainant has authorized this representation; and

[(3)] (c) A copy of this complaint form was sent to the client.

Man 401.08 Complainant Filing Instructions.

(a) One copy of the completed complaint section shall be mailed, hand delivered, or delivered by courier to the respondent for response to the specifications of the complaint.

(b) On the same day, one copy of the completed complaint section shall be filed with the board along with a nonrefundable \$25.00 check payable to "Treasurer, State of New Hampshire". The date of filing is the date this form is either hand delivered to the board, postmarked by the post office, or receipted by an overnight delivery service.

PART Man 402 BOARD OF MANUFACTURED HOUSING RESPONDENT FORM

Man 402.01 Receipt of Complaint Form by Respondent.

[(a)] Upon receipt of a Complaint Form, the respondent shall complete and file Section II - Respondent of the complaint form within 14 calendar days.

Man 402.02 Respondent. The respondent shall submit the following information[:] on Section II - Respondent:

(a) Respondent's name;

(b) Respondent's mailing address; and

(c) Respondent's telephone number at home and work.

Man 402.03 Manufactured Housing Park Rules.

The respondent shall attach a complete copy of the manufactured housing park rules applicable to the named park.

Man 402.04 Rebutting Statement by Respondent.

OR 95-106 11-20-95 24

The respondent shall state with specificity the reasons for rebutting the complaint as specified in Man 401.04. The respondent shall [L]list each rebuttal statement separately citing RSA 205-A:2, RSA 205-A:7, and/or RSA 205-A:8 and each affected paragraph thereof.

Man 402.05 Certification by Respondent.

[(a)] By signing below, the respondent certifies under the penalties of RSA 641 that:

(a) [a]All of the facts contained in this rebuttal are complete and truthful to the best of the signer's knowledge; and [that]

(b) A completed copy of Section II - Respondent has been delivered to the complainant on the same day by hand delivery, mail or by courier.

Man 402.06 Certification and Appearance by Respondent Representative.

(a) By signing below, the respondent's representative shall certify under penalties of RSA 641 that:

(1) All certifications in Man 402.04 and Man 402.05 are true;

(2) The respondent has authorized this representation; and

(3) A copy of this form was sent to the client.

Man 402.07 Respondent Filing Instructions.

(a) The respondent shall file the completed rebuttal statements of the complaint form with the board by hand delivery, postmarked by the post office, or receipted by an overnight delivery service within 14 calendar days of receipt of the complaint form.

[(1)] (b) Failure to timely file will constitute a default and the board shall default the respondent pursuant to Man 201.15.